

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

---

IN RE PHARMACEUTICAL INDUSTRY	)	
AVERAGE WHOLESale PRICE	)	MDL NO. 1456
LITIGATION	)	Civil Action No. 01-12257-PBS

---

) Judge Patti B. Saris

)  
)  
THIS DOCUMENT RELATES TO: )

)  
*The City of New York v. Abbott Labs., et al.* )  
(S.D.N.Y. No. 04-CV-06054) )  
*County of Suffolk v. Abbott Labs., et al.* )  
(E.D.N.Y. No. CV-03-229) )  
*County of Westchester v. Abbott Labs., et al.* )  
(S.D.N.Y. No. 03-CV-6178) )  
*County of Rockland v. Abbott Labs., et al.* )  
(S.D.N.Y. No. 03-CV-7055) )  
*County of Dutchess v. Abbott Labs, et al.* )  
(S.D.N.Y. No. 05-CV-06458) )  
*County of Putnam v. Abbott Labs, et al.* )  
(S.D.N.Y. No. 05-CV-04740) )  
*County of Washington v. Abbott Labs, et al.* )  
(N.D.N.Y. No. 05-CV-00408) )  
*County of Rensselaer v. Abbott Labs, et al.* )  
(N.D.N.Y. No. 05-CV-00422) )  
*County of Albany v. Abbott Labs, et al* )  
(N.D.N.Y. No. 05-CV-00425) )

[Caption Continues on Next Page]

*County of Warren v. Abbott Labs, et al.* )  
 (N.D.N.Y. No. 05-CV-00468) )  
*County of Greene v. Abbott Labs, et al.* )  
 (N.D.N.Y. No. 05-CV-00474) )  
*County of Saratoga v. Abbott Labs, et al.* )  
 (N.D.N.Y. No. 05-CV-00478) )  
*County of Columbia v. Abbott Labs, et al.* )  
 (N.D.N.Y. No. 05-CV-00867) )  
*Essex County v. Abbott Labs, et al.* )  
 (N.D.N.Y. No. 05-CV-00878) )  
*County of Chenango v. Abbott Labs, et al.* )  
 (N.D.N.Y. No. 05-CV-00354) )  
*County of Broome v. Abbott Labs, et al.* )  
 (N.D.N.Y. No. 05-CV-00456) )  
*County of Onondaga v. Abbott Labs, et al.* )  
 (N.D.N.Y. No. 05-CV-00088) )  
*County of Tompkins v. Abbott Labs, et al.* )  
 (N.D.N.Y. No. 05-CV-00397) )  
*County of Cayuga v. Abbott Labs, et al.* )  
 (N.D.N.Y. No. 05-CV-00423) )  
*County of Madison v. Abbott Labs, et al.* )  
 (N.D.N.Y. No. 05-CV-00714) )  
*County of Cortland v. Abbott Labs, et al.* )  
 (N.D.N.Y. No. 05-CV-00881) )  
*County of Herkimer v. Abbott Labs, et al.* )  
 (N.D.N.Y. No. 05-CV-00415) )  
*County of Oneida v. Abbott Labs, et al.* )  
 (N.D.N.Y. No. 05-CV-00489) )  
*County of Fulton v. Abbott Labs, et al.* )  
 (N.D.N.Y. No. 05-CV-00519) )  
*County of St. Lawrence v. Abbott Labs, et al.* )  
 (N.D.N.Y. No. 05-CV-00479) )  
*County of Jefferson v. Abbott Labs, et al.* )  
 (N.D.N.Y. No. 05-CV-00715) )  
*County of Lewis v. Abbott Labs, et al.* )  
 (N.D.N.Y. No. 05-CV-00839) )  
*County of Chautauqua v. Abbott Labs, et al.* )  
 (W.D.N.Y. No. 05-CV-06204) )  
*County of Allegany v. Abbott Labs, et al.* )  
 (W.D.N.Y. No. 05-CV-06231) )  
*County of Cattaraugus v. Abbott Labs, et al.* )  
 (W.D.N.Y. No. 05-CV-06242) )  
*County of Genesee v. Abbott Labs, et al.* )  
 (W.D.N.Y. No. 05-CV-06206) )  
*County of Wayne v. Abbott Labs, et al.* )  
 (W.D.N.Y. No. 05-CV-06138) )  
*County of Monroe v. Abbott Labs, et al.* )  
 (W.D.N.Y. No. 05-CV-06148) )

*County of Yates v. Abbott Labs, et al.* )  
(W.D.N.Y. No. 05-CV-06172) )  
*County of Niagara v. Abbott Labs, et al.* )  
(W.D.N.Y. No. 05-CV-06296) )  
*County of Seneca v. Abbott Labs, et al.* )  
(W.D.N.Y. No. 05-CV-06370) )  
*County of Orleans v. Abbott Labs, et al.* )  
(W.D.N.Y. No. 05-CV-06371) )  
*County of Ontario v. Abbott Labs, et al.* )  
(W.D.N.Y. No. 05-CV-06373) )  
*County of Schuyler v. Abbott Labs, et al.* )  
(W.D.N.Y. No. 05-CV-06387) )  
*County of Steuben v. Abbott Labs, et al.* )  
(W.D.N.Y. No. 05-CV-06223) )  
*County of Chemung v. Abbott Labs, et al.* )  
(W.D.N.Y. No. 05-CV-06744) )  
AND )  
*County of Nassau v. Abbott Labs, et al.* )  
(E.D.N.Y. No. 04-CV-5126) )  
\_\_\_\_\_)

**ANSWER OF DEFENDANT MEDIMMUNE, INC. TO PLAINTIFFS'  
REVISED FIRST AMENDED CONSOLIDATED COMPLAINT**

Defendant MedImmune, Inc. ("MedImmune") hereby answers the Revised First Amended Complaint as follows:

1. MedImmune admits that Plaintiffs purport to bring this action as alleged in Paragraph 1. MedImmune admits that attached to the Revised First Amended Consolidated Complaint are charts that purport to contain examples of defendants' drugs and to identify, among other things, the NDC, drug name, and certain pricing information from 1992 to 2005 with respect to those drugs. MedImmune denies the remaining allegations in Paragraph 1 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is otherwise without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 1 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

2. MedImmune admits that the federal government shares the cost of reimbursing drugs under New York State's Medicaid Plan with the State of New York and participating Counties. MedImmune admits that attached to the Revised First Amended Consolidated Complaint as Exhibit A is a chart that purports to summarize Plaintiffs' actions against defendants. MedImmune denies the contents of Exhibit A as they relate to MedImmune. MedImmune is otherwise without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 2 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

3. Paragraph 3 contains conclusions or characterizations of law to which no response is required. MedImmune is otherwise without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 3 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

4. MedImmune denies the allegations in Paragraph 4 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 4, and on that basis denies them.

5. Paragraph 5 of the Revised First Amended Consolidated Complaint contains conclusions or characterizations of law to which a response is not required.

6. Paragraph 6 of the Revised First Amended Consolidated Complaint contains conclusions or characterizations of law to which a response is not required.

7. Paragraph 7 of the Revised First Amended Consolidated Complaint contains conclusions or characterizations of law to which a response is not required.

8. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 8 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

9. MedImmune denies the allegations in Paragraph 9 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 4, and on that basis denies them.

10. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 10 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

11. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 11 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

12. MedImmune denies the allegations in Paragraph 12 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 12, and on that basis denies them.

13. MedImmune denies the allegations in the first sentence of Paragraph 13 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 13 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

14. MedImmune denies the allegations in the first sentence of Paragraph 14 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 14 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

15. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 15 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

16. MedImmune denies the allegations in Paragraph 16 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 16, and on that basis denies them.

17. MedImmune denies the allegations in Paragraph 17 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 17 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

18. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 18 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

19. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 19 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

20. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 20 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

21. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 21 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

22. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 22 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

23. MedImmune denies the allegations in Paragraph 23 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 23, and on that basis denies them.

24. MedImmune denies the allegations in the first sentence of Paragraph 24 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 24 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

25. MedImmune denies the allegations in Paragraph 25 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 25 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

26. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 26 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

27. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 27 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

28. MedImmune denies the allegations contained in the first sentence of Paragraph 28 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the



remaining allegations in Paragraph 28 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

29. MedImmune denies the allegations in the fourth sentence of Paragraph 29 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 29 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

30. MedImmune denies the allegations in the first sentence of Paragraph 30 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 30, and on that basis denies them.

31. MedImmune states that 42 U.S.C. § 1396r-8 and N.Y. Soc. Serv. L. § 367 speak for themselves. MedImmune denies the remaining allegations in Paragraph 31 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 31, and on that basis denies them.

32. MedImmune denies the allegations in Paragraph 32 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 32, and on that basis denies them.

33. MedImmune denies the allegations in Paragraph 33 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or

information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 33, and on that basis denies them.

34. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 34 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

35. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 35 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

36. MedImmune denies the allegations in the first sentence of Paragraph 36 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 36 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

37. MedImmune denies the allegations in the first sentence of Paragraph 37 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune admits that Plaintiffs purport to bring this action as alleged in Paragraph 37 of the Revised First Amended Consolidated Complaint but denies that Plaintiffs are entitled to any relief. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 37 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

38. MedImmune admits that Plaintiffs purport to bring this action as alleged in Paragraph 38 of the Revised First Amended Consolidated Complaint, but denies that Plaintiffs are entitled to any relief from MedImmune. MedImmune is without knowledge or information

sufficient to form a belief as to the truth of the remaining allegations in Paragraph 38 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

39. Paragraph 39 of the Revised First Amended Consolidated Complaint contains conclusions or characterizations of law to which a response is not required.

40. Paragraph 40 of the Revised First Amended Consolidated Complaint contains conclusions or characterizations of law to which a response is not required.

41. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 41 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

42. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 42 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

42A. MedImmune states that New York Social Services Law §§ 367-68 speak for themselves. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 42A of the Revised First Amended Consolidated Complaint, and on that basis denies them.

43. MedImmune admits that Plaintiffs purport to bring this action as alleged in Paragraph 43 of the Revised First Amended Consolidated Complaint.

44. MedImmune admits that it is a prescription drug manufacturer that transacts business in the State of New York. MedImmune denies the remaining allegations in Paragraph 44 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 44, and on that basis denies them.

45-67. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraphs 45-67 of the Revised First Amended Consolidated Complaint, which relate exclusively to other Defendants, and on that basis denies them.

68. MedImmune admits the allegations in Paragraph 68 of the Revised First Amended Consolidated Complaint.

69-88. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraphs 69-88 of the Revised First Amended Consolidated Complaint, which relate exclusively to other Defendants, and on that basis denies them.

89. MedImmune states that to the extent Paragraph 89 of the Revised First Amended Consolidated Complaint contains conclusions or characterizations of law, no response is required. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 89, and on that basis denies them.

90. MedImmune states that to the extent Paragraph 90 of the Revised First Amended Consolidated Complaint contains conclusions or characterizations of law, no response is required. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 90, and on that basis denies them.

91. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 91 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

92. MedImmune states that to the extent Paragraph 92 of the Revised First Amended Consolidated Complaint contains conclusions or characterizations of law, no response is required. MedImmune is without knowledge or information sufficient to form a belief as to the

truth of the remaining allegations in Paragraph 92 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

93. MedImmune states that to the extent Paragraph 93 of the Revised First Amended Consolidated Complaint contains conclusions or characterizations of law, no response is required. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 93 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

94. MedImmune states that to the extent Paragraph 94 of the Revised First Amended Consolidated Complaint contains conclusions or characterizations of law, no response is required. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 94 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

95. MedImmune states that to the extent Paragraph 95 of the Revised First Amended Consolidated Complaint contains conclusions or characterizations of law, no response is required. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 95 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

96. MedImmune states that to the extent Paragraph 96 of the Revised First Amended Consolidated Complaint contains conclusions or characterizations of law, no response is required. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 96 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

97. MedImmune states that to the extent Paragraph 97 of the Revised First Amended Consolidated Complaint contains conclusions or characterizations of law, no response is required. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 97 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

98. MedImmune states that to the extent Paragraph 98 of the Revised First Amended Consolidated Complaint contains conclusions or characterizations of law, no response is required. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 98 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

99. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 99 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

100. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 100 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

101. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 101 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

102. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 102 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

103. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 103 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

104. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 104 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

105. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 105 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

106. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 106 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

107. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 107 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

108. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 108 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

109. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 109 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

110. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 110 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

111. MedImmune states that to the extent Paragraph 111 of the Revised First Amended Consolidated Complaint contains conclusions or characterizations of law, no response is required. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 111 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

112. MedImmune admits that pharmaceutical industry pricing compendia periodically report AWP's for certain pharmaceutical products, but otherwise denies the allegations in the first sentence of Paragraph 112 of the Revised First Amended Consolidated Complaint. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 112 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

113. MedImmune denies the allegations in Paragraph 113 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 113, and on that basis denies them.

114. MedImmune denies the allegations in Paragraph 114 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 114, and on that basis denies them.



115. MedImmune denies the allegations in Paragraph 115 of the Revised First Amended Consolidated Complaint to the extent that they relate to MedImmune. MedImmune states that to the extent Paragraph 115 of the Revised First Amended Consolidated Complaint contains conclusions or characterizations of law, no response is required. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 115 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

116. MedImmune states that to the extent Paragraph 116 contains conclusions or characterizations of law, no response is required. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 116 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

117. MedImmune states that to the extent Paragraph 117 contains conclusions or characterizations of law, no response is required. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 117 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

118. MedImmune states that to the extent Paragraph 118 contains conclusions or characterizations of law, no response is required. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 118 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

119. MedImmune states that to the extent Paragraph 119 contains conclusions or characterizations of law, no response is required. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 119 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

120. MedImmune states that to the extent Paragraph 120 contains conclusions or characterizations of law, no response is required. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 120 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

121. MedImmune states that to the extent Paragraph 121 contains conclusions or characterizations of law, no response is required. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 121 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

122. MedImmune states that to the extent Paragraph 122 contains conclusions or characterizations of law, no response is required. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 122 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

123. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 123 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

124. MedImmune states that to the extent Paragraph 124 contains conclusions or characterizations of law, no response is required. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 124 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

125. The allegations in the first sentence of Paragraph 125 of the Revised First Amended Consolidated Complaint contain conclusions or characterizations of law to which no response is required. MedImmune is without knowledge or information sufficient to form a

belief as to the truth of the remaining allegations in Paragraph 125 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

126. MedImmune states that to the extent Paragraph 126 contains conclusions or characterizations of law, no response is required. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 126 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

127. MedImmune states that to the extent Paragraph 127 contains conclusions or characterizations of law, no response is required. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 127 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

128. MedImmune states that to the extent the first sentence of Paragraph 128 contains conclusions or characterizations of law, no response is required. MedImmune admits that MedImmune has paid rebates to the State of New York. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 128 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

129. MedImmune states that to the extent Paragraph 129 contains conclusions or characterizations of law, no response is required. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 129 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

130. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 130 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

131. MedImmune states that to the extent Paragraph 131 contains conclusions or characterizations of law, no response is required. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 131 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

132. MedImmune admits that it executed a Rebate Agreement with the Secretary of Health and Human Services and states that the Rebate Agreement speaks for itself. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 132 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

133. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 133 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

134. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 134 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

135. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 135 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

136. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 136 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

137. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 137 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

138. MedImmune states that to the extent Paragraph 138 contains conclusions or characterizations of law, no response is required. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 138 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

139. MedImmune states that to the extent Paragraph 139 contains conclusions or characterizations of law, no response is required. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 139 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

140. MedImmune states that to the extent Paragraph 140 contains conclusions or characterizations of law, no response is required. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 140 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

141. MedImmune states that to the extent Paragraph 141 contains conclusions or characterizations of law, no response is required. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 141 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

142. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 142 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

143. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 143 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

144. MedImmune denies the allegations in Paragraph 144 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 144 that relate to other Defendants, and on that basis denies them.

145. MedImmune admits that attached to the Revised First Amended Consolidated Complaint as Exhibit B is a list of drugs that Plaintiffs allege are issue in this litigation. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 145 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

146. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 146 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

147. MedImmune denies the allegations in Paragraph 147 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 147, and on that basis denies them.

148. MedImmune denies the allegations in Paragraph 148 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 148, and on that basis denies them.

149. MedImmune denies the allegations in Paragraph 149 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 149, and on that basis denies them.

150. MedImmune denies the allegations in Paragraph 150 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 150 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

151. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 151 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

152. MedImmune denies the allegations in Paragraph 152 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 152, and on that basis denies them.

153. MedImmune denies the allegations in Paragraph 153 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 153 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

154. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 154 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

155. MedImmune denies the allegations in Paragraph 155 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 155, and on that basis denies them.

156. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 156 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

157. MedImmune admits that it pays prompt pay discounts to wholesalers who earn them. MedImmune denies the remaining allegations in Paragraph 157 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 157, and on that basis denies them.

158. MedImmune denies the allegations in Paragraph 158 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 158, and on that basis denies them.

159. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 159 of the Revised First Amended Consolidated Complaint, and on that basis denies them.



160. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 160 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

161. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 161 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

162. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 162 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

163. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 163 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

164. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 164 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

165. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 165 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

166. MedImmune denies the allegations in Paragraph 166 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 166, and on that basis denies them.

167. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 167 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

168. MedImmune admits that it executed a Rebate Agreement and states that the Rebate Agreement speaks for itself. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 168 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

169. MedImmune denies the allegations in Paragraph 169 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 169, and on that basis denies them.

170. MedImmune denies the allegations in Paragraph 170 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 170, and on that basis denies them.

171. MedImmune denies the allegations in Paragraph 171 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 171, and on that basis denies them.

172. MedImmune denies the allegations in Paragraph 172 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 172, and on that basis denies them.

173. MedImmune denies the allegations in Paragraph 173 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 173, and on that basis denies them.

174. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 174 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

175. MedImmune denies the allegations in Paragraph 175 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 175 that relate to other Defendants, and on that basis denies them.

176. MedImmune denies the allegations in Paragraph 176 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 176 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

177. MedImmune denies the allegations in Paragraph 177 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 177 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

178. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 178 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

179. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 179 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

180. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 180 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

181. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 181 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

182. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 182 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

183. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 183 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

184. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 184 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

185. MedImmune denies the allegations in Paragraph 185 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without

knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 185, and on that basis denies them.

186. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 186 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

187. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 187 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

188. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 188 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

189. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 189 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

190. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 190 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

191. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 191 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

192. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 192 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

193. MedImmune admits that Paragraph 193 of the Revised First Amended Consolidated Complaint purports to describe practices that were also described in GAO, HHS, OIG, and DOJ investigations. To the extent Paragraph 193 contains additional allegations, MedImmune denies all such allegations.

194. MedImmune denies the allegations in Paragraph 194 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 194, and on that basis denies them.

195. MedImmune denies the allegations in Paragraph 195 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 195, and on that basis denies them

196. MedImmune admits that attached to the Revised First Amended Consolidated Complaint as Exhibit A is a chart that purports to summarize various information and allegations relating to Plaintiffs' alleged reimbursements of defendants' drugs. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 196 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

197-561. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 197-561 of the Revised First Amended Consolidated Complaint, which relate exclusively to other Defendants, and on that basis denies them.

562. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 562 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

563. MedImmune denies the allegations in Paragraph 563 of the Revised First Amended Consolidated Complaint.

564. MedImmune admits that it stated in the Suffolk County AWP matter: “a physician administering Synagis encounters costs of administration which Synagis AWP is used to cover.” MedImmune denies that by this statement it has conceded that it improperly or unlawfully inflated any prices, and on that basis denies the allegations in Paragraph 564 of the Revised First Amended Consolidated Complaint.

565. MedImmune denies the allegations in Paragraph 565 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 565, and on that basis denies them.

566. MedImmune denies the allegations in Paragraph 566 of the Revised First Amended Consolidated Complaint.

567. MedImmune admits that it has had a joint marketing agreement with Abbott’s Ross Products Unit. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 567 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

568-769. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 568-769 of the Revised First Amended Consolidated Complaint, which relate exclusively to other Defendants, and on that basis denies them.

770. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of Paragraph 770 of the Revised First Amended Consolidated Complaint, and on that basis denies them. MedImmune denies the remaining allegations in Paragraph 770 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 770, and on that basis denies them.

771. MedImmune denies the allegations in Paragraph 771 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 771, and on that basis denies them.

772. MedImmune admits that Plaintiffs purport to bring this action as alleged in the first sentence of Paragraph 772 of the Revised First Amended Consolidated Complaint. MedImmune denies the remaining allegations in Paragraph 772 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 772, and on that basis denies them.

773. MedImmune denies the allegations in Paragraph 773 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 773, and on that basis denies them.

774. MedImmune denies the allegations in Paragraph 774 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or



information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 774, and on that basis denies them.

775. MedImmune denies the allegations in Paragraph 775 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 775, and on that basis denies them.

776. MedImmune denies the allegations in Paragraph 776 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 776, and on that basis denies them

777. MedImmune denies the allegations in Paragraph 777 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 777, and on that basis denies them.

778. MedImmune denies the allegations in Paragraph 778 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 778, and on that basis denies them.

779. MedImmune denies the allegations in Paragraph 779 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 779, and on that basis denies them.

780. MedImmune denies the allegations in Paragraph 780 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 780, and on that basis denies them.

781. MedImmune denies the allegations in Paragraph 781 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 781, and on that basis denies them.

782. MedImmune denies the allegations in Paragraph 782 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 782, and on that basis denies them.

783. MedImmune denies the allegations in Paragraph 783 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 783, and on that basis denies them.

784. MedImmune denies the allegations in Paragraph 784 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 784, and on that basis denies them.

785. MedImmune denies the allegations in Paragraph 785 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or

information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 785, and on that basis denies them.

786. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 786 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

787. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 787 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

788. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 788 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

789. MedImmune denies the allegations in Paragraph 789 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 789, and on that basis denies them.

790. MedImmune denies the allegations in Paragraph 790 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 790 that relate to other Defendants, and on that basis denies them.

## **COUNT I**

791. MedImmune incorporates its responses to the allegations in Paragraphs 1-790 as if fully set forth herein.

792. MedImmune states that no response is required to Paragraph 792 of the Revised Amended Complaint because this Court has already dismissed this cause of action. To the extent a response is required, MedImmune denies the allegations set forth in Paragraph 792 of the Revised Amended Complaint as they relate to MedImmune, except admits that certain state Medicaid programs have at certain times reimbursed providers for a portion of the cost of certain MedImmune drugs. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 792, and on that basis denies them.

793. MedImmune states that no response is required to Paragraph 793 of the Revised Amended Complaint because this Court has already dismissed this cause of action. To the extent a response is required, MedImmune admits that it entered into a rebate agreement. MedImmune denies the remaining allegations in Paragraph 793 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 793, and on that basis denies them.

794. MedImmune states that no response is required to Paragraph 794 of the Revised Amended Complaint because this Court has already dismissed this cause of action. To the extent a response is required, MedImmune denies the allegations in Paragraph 794 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 794, and on that basis denies them.

795. MedImmune states that no response is required to Paragraph 795 of the Revised Amended Complaint because this Court has already dismissed this cause of action. To the extent a response is required, MedImmune denies the allegations in Paragraph 795 of the Revised First

Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 795, and on that basis denies them.

796. MedImmune states that no response is required to Paragraph 796 of the Revised Amended Complaint because this Court has already dismissed this cause of action. To the extent a response is required, MedImmune denies the allegations in Paragraph 796 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 796, and on that basis denies them.

797. MedImmune states that no response is required to Paragraph 797 of the Revised Amended Complaint because this Court has already dismissed this cause of action. To the extent a response is required, MedImmune denies the allegations in Paragraph 797 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 797, and on that basis denies them.

798. MedImmune states that no response is required to Paragraph 798 of the Revised Amended Complaint because this Court has already dismissed this cause of action. To the extent a response is required, MedImmune denies the allegations in Paragraph 798 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 798, and on that basis denies them.

799. MedImmune states that no response is required to Paragraph 799 of the Revised Amended Complaint because this Court has already dismissed this cause of action. MedImmune

further states that Paragraph 799 contains conclusions or characterizations of law to which no response is required.

800. MedImmune states that no response is required to Paragraph 800 of the Revised Amended Complaint because this Court has already dismissed this cause of action. To the extent a response is required, MedImmune denies the allegations in Paragraph 800 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 800, and on that basis denies them.

## **COUNT II**

801. MedImmune incorporates its responses to the allegations in Paragraphs 1-800 as if fully set forth herein.

802. MedImmune states that no response is required to Paragraph 802 of the Revised Amended Complaint because this Court has already dismissed this cause of action. To the extent a response is required, MedImmune admits the allegations in Paragraph 802 as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 802, and on that basis denies them.

803. MedImmune states that no response is required to Paragraph 803 of the Revised Amended Complaint because this Court has already dismissed this cause of action. To the extent a response is required, MedImmune states that Paragraph 803 contains conclusions or characterizations of law to which no response is required.

804. MedImmune states that no response is required to Paragraph 804 of the Revised Amended Complaint because this Court has already dismissed this cause of action. To the extent a response is required, MedImmune denies the allegations in Paragraph 804 of the Revised First

Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 804, and on that basis denies them.

805. MedImmune states that no response is required to Paragraph 805 of the Revised Amended Complaint because this Court has already dismissed this cause of action. To the extent a response is required, MedImmune denies the allegations in Paragraph 805 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 805, and on that basis denies them.

806. MedImmune states that no response is required to Paragraph 806 of the Revised Amended Complaint because this Court has already dismissed this cause of action. To the extent a response is required, MedImmune denies the allegations in Paragraph 806 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 806, and on that basis denies them.

807. MedImmune states that no response is required to Paragraph 807 of the Revised Amended Complaint because this Court has already dismissed this cause of action. To the extent a response is required, MedImmune denies the allegations in Paragraph 807 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 807, and on that basis denies them.

### **COUNT III**

808. MedImmune incorporates its responses to the allegations in Paragraphs 1-807 as if fully set forth herein.

809. Paragraph 809 of the Revised First Amended Consolidated Complaint contains conclusions or characterizations of law to which no response is required.

810. MedImmune denies the allegations in Paragraph 810 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 110, and on that basis denies them.

811. MedImmune denies the allegations in Paragraph 811 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 811, and on that basis denies them.

812. MedImmune denies the allegations in Paragraph 812 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 812, and on that basis denies them.

813. MedImmune denies the allegations in Paragraph 813 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 813, and on that basis denies them.

#### **COUNT IV**

814. MedImmune incorporates its responses to the allegations in Paragraphs 1-813 as if fully set forth herein.



815. MedImmune states that no response is required to Paragraph 815 of the Revised Amended Consolidated Complaint because this Court has already dismissed this cause of action. To the extent a response is required, MedImmune states that Paragraph 815 of the Revised First Amended Consolidated Complaint contains conclusions or characterizations of law to which no response is required.

816. MedImmune states that no response is required to Paragraph 816 of the Revised Amended Complaint because this Court has already dismissed this cause of action. To the extent a response is required, MedImmune states that, Paragraph 816 of the Revised First Amended Consolidated Complaint contains conclusions or characterizations of law to which no response is required.

817. MedImmune states that no response is required to Paragraph 817 of the Revised Amended Consolidated Complaint because this Court has already dismissed this cause of action. To the extent a response is required, MedImmune denies the allegations in Paragraph 817 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 817, and on that basis denies them.

## **COUNT V**

818. MedImmune incorporates its responses to the allegations in Paragraphs 1-817 as if fully set forth herein.

819. MedImmune states that no response is required to Paragraph 819 of the Revised Amended Consolidated Complaint because this Court has already dismissed this cause of action. To the extent a response is required, MedImmune denies the allegations in Paragraph 819 of the Revised First Amended Consolidated Complaint as they relate to MedImmune, except that

MedImmune admits that it entered into a rebate agreement. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 819, and on that basis denies them.

820. MedImmune states that no response is required to Paragraph 820 of the Revised Amended Consolidated Complaint because this Court has already dismissed this cause of action. To the extent a response is required, MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 820 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

821. MedImmune states that no response is required to Paragraph 821 of the Revised Amended Consolidated Complaint because this Court has already dismissed this cause of action. To the extent a response is required, MedImmune states that Paragraph 821 of the Revised First Amended Consolidated Complaint contains conclusions or characterizations of law to which no response is required.

822. MedImmune states that no response is required to Paragraph 822 of the Revised Amended Consolidated Complaint because this Court has already dismissed this cause of action. To the extent a response is required, MedImmune states that Paragraph 822 of the Revised First Amended Consolidated Complaint contains conclusions or characterizations of law to which no response is required.

823. MedImmune states that no response is required to Paragraph 823 of the Revised Amended Consolidated Complaint because this Court has already dismissed this cause of action. To the extent a response is required, MedImmune states that Paragraph 823 of the Revised First Amended Consolidated Complaint contains conclusions or characterizations of law to which no response is required.

824. MedImmune states that no response is required to Paragraph 824 of the Revised Amended Consolidated Complaint because this Court has already dismissed this cause of action. To the extent a response is required, MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 824 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

825. MedImmune states that no response is required to Paragraph 825 of the Revised Amended Consolidated Complaint because this Court has already dismissed this cause of action. To the extent a response is required, MedImmune states that Paragraph 825 of the Revised First Amended Consolidated Complaint contains conclusions or characterizations of law to which no response is required.

826. MedImmune states that no response is required to Paragraph 826 of the Revised Amended Consolidated Complaint because this Court has already dismissed this cause of action. To the extent a response is required, MedImmune denies the allegations in Paragraph 826 of the Revised First Amended Consolidated Complaint.

827. MedImmune states that no response is required to Paragraph 827 of the Revised Amended Consolidated Complaint because this Court has already dismissed this cause of action. To the extent a response is required, MedImmune denies the allegations in Paragraph 827 of the Revised First Amended Consolidated Complaint.

828. MedImmune states that no response is required to Paragraph 828 of the Revised Amended Consolidated Complaint because this Court has already dismissed this cause of action. To the extent a response is required, MedImmune states that Paragraph 828 of the Revised First Amended Consolidated Complaint contains conclusions or characterizations of law to which no response is required.

829. MedImmune states that no response is required to Paragraph 829 of the Revised Amended Consolidated Complaint because this Court has already dismissed this cause of action. To the extent a response is required, MedImmune denies the allegations in Paragraph 829 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 829, and on that basis denies them.

830. MedImmune states that no response is required to Paragraph 830 of the Revised Amended Consolidated Complaint because this Court has already dismissed this cause of action. To the extent a response is required, MedImmune denies the allegations in Paragraph 830 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 830, and on that basis denies them.

#### **COUNT VI**

831. MedImmune incorporates its responses to the allegations in Paragraphs 1-830 as if fully set forth herein.

832. MedImmune denies the allegations in Paragraph 832 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 832, and on that basis denies them.

833. MedImmune denies the allegations in Paragraph 833 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 833, and on that basis denies them.

834. MedImmune denies the allegations in Paragraph 834 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 834, and on that basis denies them.

835. MedImmune states that, to the extent Paragraph 835 of the Revised First Amended Consolidated Complaint contains conclusions or characterizations of law, no response is required. MedImmune denies the remaining allegations in Paragraph 835 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 835, and on that basis denies them.

836. MedImmune states that, to the extent Paragraph 836 of the Revised First Amended Consolidated Complaint contains conclusions or characterizations of law, no response is required. MedImmune denies the remaining allegations in Paragraph 836 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 836, and on that basis denies them.

837. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 837 of the Revised First Amended Consolidated Complaint, and on that basis denies them.

838. MedImmune denies the allegations in Paragraph 838 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 838, and on that basis denies them.

839. MedImmune denies the allegations in Paragraph 839 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 839, and on that basis denies them.

## **COUNT VII**

840. MedImmune incorporates its responses to the allegations in Paragraphs 1-839 as if fully set forth herein.

841. MedImmune denies the allegations in Paragraph 841 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 841, and on that basis denies them.

842. MedImmune denies the allegations in Paragraph 842 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 842, and on that basis denies them.

843. MedImmune denies the allegations in Paragraph 843 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 843, and on that basis denies them.

844. MedImmune states that Paragraph 844 of the Revised First Amended Consolidated Complaint contains conclusions or characterizations of law to which no response is required.

845. MedImmune denies the allegations in Paragraph 845 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or

information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 845, and on that basis denies them.

### **COUNT VIII**

846. MedImmune incorporates its responses to the allegations in Paragraphs 1-845 as if fully set forth herein.

847. MedImmune states that no response is required to Paragraph 847 of the Revised Amended Complaint because this Court has already dismissed this cause of action. To the extent a response is required, MedImmune denies the allegations in Paragraph 847 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 847, and on that basis denies them.

848. MedImmune states that no response is required to Paragraph 848 of the Revised Amended Complaint because this Court has already dismissed this cause of action. To the extent a response is required, MedImmune denies the allegations in Paragraph 848 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 848, and on that basis denies them.

849. MedImmune states that no response is required to Paragraph 849 of the Revised Amended Complaint because this Court has already dismissed this cause of action. To the extent a response is required, MedImmune denies the allegations in Paragraph 849 of the Revised First Amended Consolidated Complaint as they relate to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 849, and on that basis denies them.

### **PRAYER FOR RELIEF**

850-858. MedImmune denies that there is any basis in law or fact for Plaintiffs to obtain the relief requested in Paragraphs 850-858 as to MedImmune. MedImmune is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraphs 850-858, and on that basis denies them.

\* \* \*

MedImmune denies all allegations in the Complaint (including headings) not specifically admitted above.

\* \* \*

MedImmune sets forth the following affirmative and other defenses. MedImmune does not intend hereby to assume the burden of proof with respect to those matters as to which, pursuant to law, Plaintiff bears the burden. MedImmune reserves the right to assert in the future such other and further defenses as may become available or apparent during pretrial proceedings.

### **AFFIRMATIVE AND OTHER DEFENSES**

#### **FIRST DEFENSE**

1. Plaintiffs fail to state a claim upon which relief may be granted.

#### **SECOND DEFENSE**

2. Plaintiffs' claims are barred by the doctrines of unclean hands, estoppel, ratification, and waiver.

#### **THIRD DEFENSE**

3. Plaintiffs' claims are barred because of the failure to join indispensable parties.

#### **FOURTH DEFENSE**

4. Plaintiffs' claims are barred, in whole or in part, by the defense of laches.



**FIFTH DEFENSE**

5. Plaintiffs' claims are barred by the failure to exhaust applicable administrative remedies.

**SIXTH DEFENSE**

6. Plaintiffs' claims are barred, in whole or in part, by the applicable statute(s) of limitations.

**SEVENTH DEFENSE**

7. Plaintiffs' claims are barred by the failure to mitigate damages.

**EIGHTH DEFENSE**

8. Plaintiffs' claims are barred, in whole or in part, by the failure to comply with applicable statutes and regulations.

**NINTH DEFENSE**

9. Plaintiffs' claims are preempted, in whole or in part, by federal law.

**TENTH DEFENSE**

10. Plaintiffs' claims against MedImmune for injunctive relief were mooted by the passage of the Medicare Prescription Drug, Improvement, and Modernization Act ("MMA") in 2003, which requires participating prescription drug manufacturers to report Average Sales Price ("ASP") quarterly and defines ASP as the manufacturer's "sales to all purchasers . . . in the United States for such drug or biological in the calendar quarter; divided by the total number of such units of 72 such drug or biological sold by the manufacturer in such quarter." 42 U.S.C. §§1396r-8(b)(3)42 & 1395w-3a(c)(1).

**ELEVENTH DEFENSE**

11. Plaintiffs fail to plead fraud with particularity as required by Rule 9(b) of the Federal Rules of Civil Procedure.

**TWELFTH DEFENSE**

12. Plaintiffs' claims are barred, in whole or in part, by the voluntary payment doctrine.

**THIRTEENTH DEFENSE**

13. MedImmune pleads all procedural and substantive limitations to the imposition of punitive damages.

**FOURTEENTH DEFENSE**

14. The imposition of punitive damages violates the excessive fines provisions, Due Process Clauses, and Equal Protection Clauses of the United States Constitution and the Constitution, common law, and public policies of the State of New York.

**FIFTEENTH DEFENSE**

15. Should MedImmune be held liable to Plaintiffs, which liability is specifically denied, applicable statutory ceilings on recoverable damages limit any damages recovered by Plaintiffs from MedImmune.

**SIXTEENTH DEFENSE**

16. All rebates paid by MedImmune to the State of New York should be taken into account in determining the amount of damages, if any, to which Plaintiffs are entitled.

**SEVENTEENTH DEFENSE**

17. Plaintiffs lack standing or capacity to bring some or all of the claims asserted.

**EIGHTEENTH DEFENSE**

18. Plaintiffs' claims against MedImmune are misjoined with Plaintiffs' claims against other defendants and must be severed.

**NINETEENTH DEFENSE**

19. Plaintiffs have not suffered, and will not suffer, any damages as a result of the conduct of MedImmune as alleged in the Revised Amended Complaint.

**TWENTIETH DEFENSE**

20. MedImmune's statements or actions were not the proximate cause or cause in fact of any injury to or alleged loss by Plaintiffs.

**TWENTY-FIRST DEFENSE**

21. Plaintiffs' claims are barred, in whole or in part, by the filed rate doctrine.

**TWENTY-SECOND DEFENSE**

22. The Plaintiffs' claims are barred, in whole or in part, because any injuries sustained by the Plaintiffs were the result of its own conduct or the intervening or superseding conduct of third parties.

**TWENTY-THIRD DEFENSE**

23. Plaintiffs and/or their agents knew and were aware at all relevant times that AWP was not an average wholesale price or the actual acquisition cost of drugs and made their reimbursement choices with such knowledge. Legal and equitable principles preclude this action for damages and injunctive relief, and the Due Process Clause of the U.S. Constitution and the Constitution of the State of New York, prohibiting the absolute and arbitrary abuse of power, preclude Plaintiffs from bringing claims and seeking damages as alleged in the Revised Amended Complaint.

**TWENTY-FOURTH DEFENSE**

24. The claims alleged herein, based on the facts alleged, are barred, in whole or in part, by the Plaintiffs' own negligence or gross negligence.

**TWENTY-FIFTH DEFENSE**

25. The Plaintiffs and/or its agents knew and were aware that AWP was not an average wholesale price or the actual acquisition cost of drugs. Legal and equitable principles preclude this action for damages and injunctive relief, and the Due Process Clauses of the United States Constitution and the New York Constitution preclude the Plaintiffs from bringing claims and seeking damages as alleged in the Complaint.

**TWENTY-SIXTH DEFENSE**

26. Some or all of the Plaintiffs' claims against MedImmune arise from the Plaintiffs' or the State's failure to follow federal and state statutory and regulatory obligations to properly establish appropriate reimbursement rates.

**TWENTY-SEVENTH DEFENSE**

27. All actions taken by MedImmune with respect to any of the matters alleged in the Complaint were taken in good faith and in accordance with established industry practice.

**TWENTY-EIGHTH DEFENSE**

28. The Plaintiffs' reimbursement rates for drugs for Medicaid recipients were filed with, reviewed by, and approved by a federal regulatory agency with authority to do so under the Medicaid Act. Actions in a state court seeking relief, including alleged damages, contending that rates approved by a federal regulatory agency do not apply or are not binding are, are barred by the Supremacy Clause of the United States Constitution.

**TWENTY-NINTH DEFENSE**

29. Any alleged misconduct by MedImmune was not a substantial factor in Plaintiffs' decision to reimburse for MedImmune products.

**THIRTIETH DEFENSE**

30. The Plaintiffs' claims are preempted, in whole or in part, by federal law, including without limitation, the Federal Medicare Act and the Federal Medicaid Act, including all amendments to the same and all regulations promulgated thereunder.

**THIRTY-FIRST DEFENSE**

31. The Plaintiffs' claims are barred, in whole or in part, by the *Noerr-Pennington* doctrine to the extent that such claims are premised, in whole or in part, on alleged statements or conduct by MedImmune in judicial, legislative, or administrative proceedings of any kind or at any level of government.

**THIRTY-SECOND DEFENSE**

32. The Plaintiffs' claims against MedImmune are barred because MedImmune has complied with all applicable regulations of the federal and state governments.

**THIRTY-THIRD DEFENSE**

33. To the extent that the Plaintiffs obtain, or are barred from, recovery in any other case predicated on the same factual allegations, the Plaintiffs are barred from seeking recovery against MedImmune based on the Complaint pursuant to the doctrines of claim preclusion, issue preclusion, res judicata, collateral estoppel, and the prohibition on double recovery for the same injury.

**THIRTY-FOURTH DEFENSE**

34. Any discounts that were provided by MedImmune were earned discounts and therefore appropriate business decisions.

**THIRTY-FIFTH DEFENSE**

35. To the extent that the Plaintiffs attempt to seek equitable relief against MedImmune, the Plaintiffs are not entitled to such relief because the State has an adequate remedy at law.

**THIRTY-SIXTH DEFENSE**

36. The Plaintiffs did not rely on the allegedly fraudulent statements or representations of MedImmune.

**THIRTY-SEVENTH DEFENSE**

37. Any alleged misconduct by MedImmune was not a substantial factor in the Plaintiffs' purchase or reimbursement of any prescription medications.

**THIRTY-EIGHTH DEFENSE**

38. The Plaintiffs' claims against MedImmune for damages are barred, in whole or in part, because such damages are speculative and remote.

**THIRTY-NINTH DEFENSE**

39. The Plaintiffs' unjust enrichment claims are barred, in whole or in part, because MedImmune did not collect or retain any money belonging to the Plaintiffs as a result of any alleged overpayments.

**FORTIETH DEFENSE**

40. The Plaintiffs' unjust enrichment claims are barred because MedImmune has not accepted or retained any benefits under circumstances where it would be inequitable for MedImmune to do so.

**FORTY-FIRST DEFENSE**

41. The Plaintiffs' claims against MedImmune for damages are barred, in whole or in part, because they would be unjustly enriched if allowed to recover any portion of the damages alleged in the Complaint.

**FORTY-SECOND DEFENSE**

42. The Plaintiffs' claims are barred, in whole or in part, to the extent that the Plaintiffs have released, settled, entered into an accord and satisfaction, or otherwise compromised its claims.

**FORTY-THIRD DEFENSE**

43. The Plaintiffs' claims are barred, in whole or in part, because they violate MedImmune's rights under the Due Process and Ex Post Factor clauses of the United States Constitution and New York Constitution, insofar as the Plaintiffs seek to impose liability retroactively for conduct that was not actionable at the time it occurred.

**FORTY-FOURTH DEFENSE**

44. The Plaintiffs' claims against MedImmune are barred, in whole or in part, by the existence and terms of the written rebate agreement between MedImmune and the Secretary of the Department of Health and Human Services ("HHS"), on behalf of HHS and all certain States, including New York, entitled, "Rebate Agreement Between the Secretary of Health and Human Services and the Manufacturer Identified in Section XI of this Agreement" (the "Rebate Agreement"), which was entered into pursuant to 42 U.S.C. § 1369r-8. The Rebate Agreement constitutes the entire agreement between MedImmune and the State of New York and governs the relationship between them.

**FORTY-FIFTH DEFENSE**

45. The Plaintiffs' claims against MedImmune are barred, in whole or in part, by the Plaintiffs' quarterly receipt of data, known as Unit Rebate Amounts ("URAs"), which were derived from pricing data provided by MedImmune to the Centers for Medicare and Medicaid Services ("CMS").

**FORTY-SIXTH DEFENSE**

46. The Plaintiffs' claims against MedImmune are barred, in whole or in part, by the municipal cost recovery rule, which prevents recovery of the cost of public services through claims that the actions of a particular defendant caused a governmental unit to provide such services.

**FORTY-SEVENTH DEFENSE**

47. The Plaintiffs' claims against MedImmune under General Business Law § 349 are barred in whole or in part to the extent that the Act: (i) does not allow (or did not allow at the time the conduct was alleged herein) for recovery by indirect purchasers; and (ii) does not govern conduct that was primarily interstate in nature.

**FORTY-EIGHTH DEFENSE**

48. The Plaintiffs' claims against MedImmune are barred, in whole or in part, because MedImmune did not make any false statements to Plaintiffs or their agents. As to any statement asserted against MedImmune that Plaintiffs allege to be false or misleading, MedImmune had no reasonable grounds to believe, and did not believe at the time such statement was made, that the statement was false or misleading.

**FORTY-NINTH DEFENSE**

49. MedImmune incorporates, by reference, any applicable defense pleaded by any other defendant not otherwise expressly set forth herein.



**FIFTIETH DEFENSE**

50. MedImmune intends to rely upon any other and additional defense that is now or may become available or appear during, or as the result of, the discovery proceedings in this action or any developments in constitutional, statutory, administrative, regulatory, or decisional law, and hereby reserves its rights to amend its Answer to assert such defense.

Dated: August 29, 2008

Respectfully submitted,

WILLIAMS & CONNOLLY LLP

By: /s/ John E. Schmidtlein

John E. Schmidtlein  
725 Twelfth Street, N.W.  
Washington, D.C. 20005  
Telephone: (202) 434-5000  
Facsimile: (202) 434-5029

*Attorney for Defendant MedImmune, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that I caused true and correct copies of the attached Answer of Defendant MedImmune, Inc. to Plaintiffs' Revised First Amended Consolidated Complaint, to be served on all counsel of record by electronic service by sending a copy to LexisNexis File & Serve for posting and notification to all parties, on this 29th day of August, 2008.

/s/ John E. Schmidtlein  
John E. Schmidtlein (admitted *pro hac vice*)